United Nations A/59/180/Add.1

General Assembly

Distr.: General
26 August 2004

Original: English

Fifty-ninth session
Item 141 of the provisional agenda*
Nationality of natural persons in relation to the succession of States

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Note by the Secretariat

Addendum

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* A/59/150.

04-47151 (E) 140904

II. Comments and observations received from Governments

Kuwait

[Original: Arabic]

Preamble

1. The draft articles lay out guiding principles for States to follow in the event of the replacement of one State by another (the succession of States). The preamble of the draft articles emphasizes that "the question of nationality" in general is governed by the internal law of each State, and also states the need to respect the will of the persons concerned whenever those persons are qualified to acquire the nationality of two or more States concerned; this is the right of option, which is mentioned in numerous places in the articles.

2. It is imperative that reference be made in the articles to the applicability of the principles of nationality contained in the internal law of each State when there is a conflict with the provisions of the articles. In this regard, the text of the preamble is insufficient in stating: "Emphasizing that nationality is essentially governed by internal law within the limits set by international law."

3. In the fifth paragraph of the preamble and in article 13, the draft articles refer to the Convention on the Rights of the Child of 1989, which recognizes the right of every child to acquire a nationality. It must be noted here that the State of Kuwait, in accordance with Decree No. 104 of 1991 (25 September 1991), in acceding to that Convention, expressed a reservation regarding article 7, which recognizes the right of the child to a nationality from birth. It is necessary to take note of this same reservation with regard to the preamble of the above-mentioned draft articles, particularly since the Kuwaiti Nationality Law promulgated by Decree No. 15 of 1959 and its amendments considers the acquisition of Kuwaiti nationality to be through ties of blood rather than territorial ties, except in the case of a child born in Kuwait both of whose parents are unknown (article 3).